

PLANNING COMMISSION MINUTES

April 25, 2001

CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:01 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Brian Lynott and Dan Maks. Planning Commissioners Chuck Heckman and Eric Johansen were excused.

Principal Planner Hal Bergsma, Senior Planner Alan Whitworth, Senior Planner John Osterberg, Senior Planner Barbara Fryer, Associate Planner Scott Whyte, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

VISITORS:

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

On question, staff indicated that there were no communications at this time.

NEW BUSINESS:

Chairman Voytilla opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

PUBLIC HEARINGS:

1 **A. CPA 2000-0006/RZ 2000-0008 – 13675 NW CORNELL**
2 **COMPREHENSIVE PLAN AMENDMENT AND REZONE**

3 This proposal is to amend the Comprehensive Plan and Zoning Maps to add a
4 recently-annexed parcel and to designate it as Town Center on the
5 Comprehensive Plan Map and Town Center Multiple Use on the Zoning Map
6 in place of the current Washington County designation of Transit Oriented
7 Retail Commercial. The parcel is located at 13675 NW Cornell Road and is
8 approximately 0.5 acres in size. Map 1N1-33BD, Tax Lot 8800.

9
10 Senior Planner Alan Whitworth submitted the Staff Report and offered to
11 respond to any questions or comments.

12
13 **PUBLIC TESTIMONY:**

14
15 On question, no member of the public appeared to testify at this time.

16
17 The Public Hearing was closed.

18
19 On question, all Planning Commissioners expressed their support of the
20 application.

21
22 Commissioner Lynott **MOVED** and Commissioner Maks **SECONDED** a
23 motion that CPA 2000-0006 – 1375 NW Cornell Comprehensive Plan
24 Amendment be approved, based upon the testimony, reports and exhibits
25 presented during the Public Hearing on the matter and upon the background
26 facts, findings and conclusions found in the Staff Report dated April 5, 2001,
27 based upon this Public Hearing.

28
29 Motion **CARRIED**, unanimously.

30
31 Commissioner Lynott **MOVED** and Commissioner Maks **SECONDED** a
32 motion that RZ 2000-0008 – 1375 NW Cornell Rezone be approved, based
33 upon the testimony, reports and exhibits presented during the Public Hearing
34 on the matter and upon the background facts, findings and conclusions found
35 in the Staff Report dated April 5, 2001, based upon this Public Hearing.

36
37 Motion **CARRIED**, unanimously.

38
39 **B. CPA 2001-0004/RZ 2001-0004 – PETERKORT VILLAGE/VENTURE**
40 **PROPERTIES, INC. COMPREHENSIVE PLAN AMENDMENT AND**
41 **REZONE**

42 This proposal is to amend the Comprehensive Plan and Zoning Maps to add
43 recently-annexed property and to designate it Urban Medium Density
44 Residential on the Comprehensive Plan Map and R-2 and R-4 on the Zoning
45 Map in place of the current Washington County designations of Transit
46 Oriented (TO) Residential – 9-12 units per acre; TO:R – 12-18 units per acre;

1 and TO:R – 24-40 units per acre. The property is located east of SW Cedar
2 Hills Boulevard and north of SW Celeste Lane and is approximately 20 acres
3 in size. Map 1S1-03AA, Tax Lot 100.
4

5 Mr. Whitworth submitted the Staff Report and clarified that the transit-
6 oriented County designation should be going to the City station area
7 designation, but the City station area only provides high-density residential
8 zoning, adding that the result would be that all of these lots would be non-
9 conforming. He explained the rationale for recommending Urban Medium
10 Density and the R-2 and R-4 zoning designations indicated on the maps.
11 Concluding, he offered to respond to any comments or questions.
12

13 Commissioner Bliss questioned the practice of annexation of property that is
14 not contiguous to city property, pointing out that this property is located a
15 considerable distance away from any city property.
16

17 Mr. Whitworth pointed out that the right-of-ways have been annexed and that
18 the subject property is connected to the main part of the City by right-of-ways,
19 emphasizing that the maintenance of these right-of-ways is not City
20 responsibility.
21

22 Principal Planner Hal Bergsma observed that while the City of Beaverton has
23 tentatively defined its urban services area, which includes the subject
24 property, it sometimes becomes necessary to annex up a road to get to a
25 particular property. The property owner had requested annexation to the City.
26

27 **PUBLIC TESTIMONY:**
28

29 **CLARENCE SCHAUB** expressed his opposition to this application and the
30 increase in density near his home, observing that while he is zoned the same
31 as his neighbors, his lot would back up to four houses, adding that his
32 neighbors' lots would only back up to one lot.
33

34 Commissioner Maks reminded Chairman Voytilla that this rezone application
35 is not a development proposal.
36

37 Chairman Voytilla informed Mr. Schaub that it is necessary to address the
38 specific criteria outlined in the Staff Report, adding that this land has been
39 developed under Washington County Standards and that it is the responsibility
40 of the Planning Commissioners to adopt zoning most consistent with the
41 previous Washington County zoning designation.
42

43 Mr. Schaub indicated that he had not received this Staff Report and
44 information.
45

1 Mr. Whitworth explained that when Mr. Schaub had come to the office he had
2 provided him with a copy of the Staff Report and attempted to explain the
3 situation.
4

5 Mr. Bergsma clarified that this property had been through the Development
6 Review process with Washington County, who had been responsible for
7 notification to surrounding property owners. He further explained that this
8 had all been approved through the Washington County process and that the
9 City of Beaverton is simply applying City zoning and planning designations
10 that roughly correspond to previous County zoning and planning designations.
11 He emphasized that this jurisdiction has no authority to revise the subdivision,
12 which has been approved and is currently being developed.
13

14 Commissioner Maks explained the agreement between Washington County
15 and the City of Beaverton, specifically that certain Washington County
16 property, when annexed to the City of Beaverton shall be zoned under a
17 certain zoning designation, or as closely designated as possible.
18

19 Mr. Schaub informed Commissioner Maks that while Washington County had
20 advised him on April 5, 2001, that only one house would be located on the lot
21 adjoining his property, that same date he was provided information by the
22 City of Beaverton indicating that three houses would be located on the lot
23 adjoining his property. Pointing out that the high density designation does not
24 even take effect at that point, he questioned the feasibility of adopting a
25 designation that has never been disclosed.
26

27 Commissioner Maks advised Mr. Schaub that the Planning Commission is
28 adopting a zone, rather than a development.
29

30 Commissioner Barnard questioned whether Mr. Schaub has in his possession
31 a zoning map from Washington County that provides different zoning
32 designations than the zoning map provided by staff.
33

34 Mr. Schaub informed Commissioner Barnard that he has this map in his
35 possession, adding that he had received it from Washington County on April
36 5, 2001, the same date that he had been provided contradictory information
37 from the City of Beaverton.
38

39 Commissioner Barnard requested that Mr. Schaub submit that document to the
40 Planning Commissioners.
41

42 Advising Commissioner Barnard that he had already done so, Mr. Schaub
43 submitted another copy of the Washington County map for comparison to
44 staff's map.
45

1 Expressing his appreciation to Mr. Schaub for providing this map, Chairman
2 Voytilla advised him that the Commission is comparing this document to
3 staff's map.
4

5 On question, Mr. Whitworth informed Commissioner Maks that Washington
6 County's designation of 9-12 is being converted to R-4, and verified that the
7 Washington County designation of 12-18 is being converted to R-2.
8

9 Referring to the map indicating that the zoning district R-9 to R-12 runs down
10 and adjacent to Mr. Schaub's property, Commissioner Maks expressed his
11 opinion that an R-4 designation would be more feasible.
12

13 Mr. Whitworth informed Commissioner Maks that staff had reviewed what
14 had been approved by Washington County's development process, noting that
15 every effort had been made to avoid creating non-conforming lots.
16

17 Commissioner Maks questioned whether the approved density is within the 9-
18 12 designation.
19

20 Mr. Whitworth advised Commissioner Maks that unlike the City of
21 Beaverton, Washington County allows an applicant to spread their density
22 throughout an entire parcel.
23

24 Commissioner Maks referred to this action as a density transfer and discussed
25 several options that are available at this point.
26

27 Chairman Voytilla referred to the final order from Washington County,
28 specifically whether it includes any particular Condition of Approval allowing
29 or accepting this modification.
30

31 Mr. Whitworth informed Chairman Voytilla that he is not aware of any such
32 specific condition.
33

34 Chairman Voytilla expressed his appreciation to Mr. Schaub, assuring him
35 that the information he had provided would be taken into consideration. He
36 reiterated that the City of Beaverton had not approved the development and is
37 only attempting to correspond with what Washington County had approved,
38 emphasizing that any issues regarding this development needs to be addressed
39 to Washington County.
40

41 Mr. Schaub emphasized that information he had received from Washington
42 County had never indicated that four new houses would abut his property.
43

44 Chairman Voytilla reiterated that this issue cannot be addressed by this entity
45 and urged Mr. Schaub to contact Washington County with his concerns.
46

1 No one further from the public appeared to testify regarding this issue.

2
3 On question, Mr. Whitworth indicated that he had no further comments.

4
5 On question, City Attorney Ted Naemura indicated that he had no comments.

6
7 The Public Hearing was closed.

8
9 Expressing his support of the application, Commissioner Mays pointed out
10 that the proposed development would occur whether this application is
11 approved or denied.

12
13 Observing that he understands Mr. Schaub's frustration, Chairman Voytilla
14 expressed his support of the application.

15
16 Commissioner Bliss expressed his support of the application, adding that he
17 agrees with Commissioner Mays' statement that the development would
18 occur.

19
20 Expressing his opinion that existing property should be respected,
21 Commissioner Barnard stated that he does not support the application.

22
23 Commissioner Lynott expressed his agreement with Commissioner Mays and
24 support of the application.

25
26 Commissioner Lynott **MOVED** and Commissioner Bliss **SECONDED** a
27 motion that CPA 2001-0004 – Peterkort Village/Venture Properties, Inc.
28 Comprehensive Plan Amendment be approved, based upon the testimony,
29 reports and exhibits presented during the Public Hearing on the matter and
30 upon the background facts, findings and conclusions found in the Staff Report
31 dated April 5, 2001, based upon this Public Hearing.

32
33 Motion **CARRIED** by the following roll call vote:

34
35 **AYES:** Bliss **NAY:** Barnard
36 Lynott
37 Mays
38 Voytilla
39

40 Commissioner Lynott **MOVED** and Commissioner Bliss **SECONDED** a
41 motion that RZ 2001-0004 – Peterkort Village/Venture Properties, Inc.
42 Rezone be approved, based upon the testimony, reports and exhibits presented
43 during the Public Hearing on the matter and upon the background facts,
44 findings and conclusions found in the Staff Report dated April 5, 2001, based
45 upon this Public Hearing.
46

Motion **CARRIED** by the following roll call vote:

AYES:	Bliss	NAY:	Barnard
	Lynott		
	Maks		
	Voytilla		

C. CPA 2001-0008/RZ 2001-0008 – 1275 SW 158TH AVENUE
COMPREHENSIVE PLAN MAP AMENDMENT AND REZONE

This proposal is to amend the Comprehensive Plan and Zoning Maps to add a recently annexed parcel and to designate it Station Community on the Comprehensive Plan Map and Station Community – Multiple Use on the Zoning Map in place of the current Washington County designation of Transit Oriented Business. The parcel is located at 1275 SW 158th Avenue and is approximately 0.4 acres in size. Map 1S1-05CB, Tax Lot 800.

Mr. Whitworth submitted the Staff Report and explained that the designation had been determined by attempting to adopt zoning as compatible with the previous Washington County designation as possible. He mentioned a communication from attorney Steven Abel of the law firm of *Stoel Rives* concerning access to the parcel, adding that he had contacted Washington County who had advised him that a violation had been issued on May 3, 1999, because the access issue had not been recorded. He pointed out that numerous telephone calls had failed to provide necessary information, adding that the Commission has the option of continuing the Public Hearing to allow him the opportunity to obtain further information on why this violation had been abated.

On question, Mr. Whitworth advised Commissioner Bliss that the letter from *Stoel Rives* was representing the owner of the lot to the south of the subject property. This lot, however, has been combined with an adjacent lot and no longer has the tax identification number referenced in the letter or attached report.

PUBLIC TESTIMONY:

On question, no member of the public appeared to testify regarding this issue.

On question, Mr. Whitworth indicated that he had no further comments.

Observing that he agrees with the general comments, Mr. Naemura commented that there should be some separation of the Conditions of Approval on the rezone as opposed to the conditions on Washington County's development approval.

The Public Hearing was closed.

Expressing his opinion that the Public Hearing should be continued to a date certain, Commissioner Maks noted that there are two separate issues and that it is necessary to enforce anything that has already been approved. Emphasizing that there is the potential of annexing a problem, he urged that this application not be considered and approved without further information.

Observing that there is not adequate information to make an informed decision, Chairman Voytilla and Commissioners Lynott, Bills and Barnard expressed their support of continuing the Public Hearing.

Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a motion that CPA 2001-0008 – 1275 SW 158th Avenue Comprehensive Plan Amendment be continued to a date certain of May 9, 2001.

Motion **CARRIED**, unanimously.

Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a motion that RZ 2001-0008 – 1275 SW 158th Avenue Rezone be continued to a date certain of May 9, 2001.

Motion **CARRIED**, unanimously.

D. CUP 2001-0001 – SPRINT CELL TOWER AT JENKINS & MURRAY

Request for approval of a Conditional Use Permit (CUP) for the proposed placement of a telecommunication facility consisting of six panel antennas placed atop a 76-foot monopole with lightning rod extension for an overall height of eighty feet. In addition, the applicant proposes to place seven equipment cabinets at grade below the monopole. The proposed monopole and related equipment would be enclosed by a seven-foot wooden fence. The site proposed for placement of the facility is generally located at the southeast corner of SW Jenkins Road and SW Murray Boulevard. The site can be specifically identified as Tax Lot 1700 on Washington County Tax Map 1S1-09BB and is addressed at 14480 SW Jenkins Road. The site is zoned Campus Industrial (CI) and is approximately 0.74 acres in size. Within the CI zone, facilities related to utility distribution are permitted with Conditional Use approval.

Commissioners Barnard, Bliss and Maks and Chairman Voytilla all indicated that they had visited the site and had no contact with anyone regarding this application.

Commissioner Lynott indicated that although he had not visited, he is familiar with the site and had no contact with anyone regarding this application.

Associate Planner Scott Whyte submitted the Staff Report and described the proposal and the history of the site. Concluding, he expressed his opinion that

1 the proposal meets applicable criteria, recommended approval and offered to
2 respond to any questions or comments.

3
4 Commissioner Lynott questioned the height of the existing pole.

5
6 Mr. Whyte responded to Commissioner Lynott's question, noting that the
7 overall height of the pole, including the antenna, is eighty feet.

8
9 Chairman Voytilla referred to Condition of Approval No. 1, suggesting that it
10 be amended, as follows: "...change of ownership of the site or wireless
11 structure."

12
13 Commissioner Maks observed that there should be a Condition of Approval
14 providing that the applicant shall be responsible for removal of wireless
15 structure within six months of cease of operation. He questioned whether this
16 particular monopole is tall enough to allow for collocation of equipment.

17
18 **APPLICANT:**

19
20 **HOLLY HENDRICKS**, representing *SBA, Inc.*, described the project and
21 efforts to comply with local regulations and mitigate any issues. Concluding,
22 she indicated that she has no problem with the proposed Conditions of
23 Approval and offered to respond to any questions or comments.

24
25 Commissioner Maks requested clarification of the odds of any other cell tower
26 equipment collocating below the applicant's equipment.

27
28 Ms. Hendricks agreed that it is unlikely that another antenna set would be
29 placed below the applicant's antennas, but noted that collocation would be
30 available.

31
32 **PUBLIC TESTIMONY:**

33
34 Chairman Voytilla observed that he has a yellow card from **PAT RUSSELL**,
35 who is not present, expressing his support of this application.

36
37 Mr. Whyte indicated that he had no further comments regarding this
38 application.

39
40 8:14 p.m. to 8:15 p.m. – break.

41
42 Mr. Naemura indicated that he had no comments regarding this application.

43
44 The Public Hearing was closed.

45

Commissioner Lynott expressed his support of this application, observing that he would prefer a few larger towers with collocation potential, rather than numerous smaller towers, each with a single antenna set.

Commissioners Barnard, Bliss and Maks and Chairman Voytilla expressed their support of this application, with an additional Condition of Approval as proposed by Commissioner Maks.

Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a motion that CUP 2001-0001 – Sprint Cell Tower at Jenkins and Murray be approved, based upon the testimony, reports and exhibits presented during the Public Hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated April 18, 2001, based upon this Public Hearing, and subject to Condition of Approval Nos. 1 through 5, plus additional Condition of Approval No. 6, as follows:

6. Applicant shall be responsible for removal of wireless structure within six months of cease of operation.

And the following amendment to Condition of Approval No. 1:

1. The Conditional Use Permit shall run with the land and shall continue to be valid upon change of ownership of the site or wireless structure.

Motion **CARRIED**, unanimously.

8:20 to 8:31 p.m. – break.

E. CUP 2001-0005 – SEXTON MOUNTAIN VILLAGE PUD; MODIFICATION OF CONDITIONS OF APPROVAL

The application has been submitted for a modification to the previously approved Conditional Use Permit application. The applicant specifically requests to eliminate Condition of Approval No. 4, which makes the approval contingent on the approval of the Haggen Rezone and the Sexton Place Townhome Rezone applications (RZ 2000-0002 and RZ 2000-0003), both of which have been approved by the City. The development proposal is located west of SW Murray Boulevard and north of SW Beard Road; Washington County Assessor's Map 1S1-29D, Tax Lots 100 and 200. The site is zoned Urban Medium Density (R-2) and Community Service (CS) and is approximately a total of 17.5 acres in size.

F. RZ 2001-0009 – SEXTON PLACE REZONE; MODIFICATION OF CONDITIONS OF APPROVAL

Request for Planning Commission approval of a Zone Change application for a modification to the previously approved application. The applicant requests

to eliminate Condition of Approval No. 4, which makes the approval contingent on the approval of the Beard Court and Haggen Rezone applications (RZ 2000-0001 and RZ 2000-0002) which have been approved by the City. The development proposal is located west of SW Murray Boulevard and north of SW Beard Road; Washington County Assessor's Map 1S1-29D, Tax Lots 100 and 200. The site is zoned Urban Medium Density (R-2) and is approximately 7.5 acres in size.

G. RZ 2001-0010 – BEARD COURT REZONE; MODIFICATION OF CONDITIONS OF APPROVAL

Request for Planning Commission approval of a Zone change application for a modification to the previously approved application. The applicant requests to eliminate Condition of Approval No. 4, which makes the approval contingent on the approval of the Sexton Place and Haggen Rezone applications (RZ 2000-0003 and RZ 2000-0002) which have been approved by the City. The development proposal is located east of SW 155th Avenue and north of SW Beard Road, Washington County assessor's Map 1S1-29DB, Tax Lots 101, 300, 400 and 500. The site is zoned Urban Standard Density Residential (R-5) and is approximately a total of 10.33 acres in size.

Chairman Voytilla mentioned that he had received a request from Andy Rapp to allow individuals representing groups additional time to speak.

Commissioner Barnard recused himself from participating in this decision.

Commissioner Bliss recused himself from participating in this decision.

8:34 p.m. – Commissioner Barnard and Bliss left the dais and joined the audience for the duration of this Public Hearing.

Commissioners Maks and Lynott and Chairman Voytilla all indicated that although they did not visit, they were familiar with the site and had had no contact with any individual regarding these applications.

Mr. Osterberg submitted the Staff Reports and explained the request for a modification of the Conditions of Approval, observing that the applicant proposes to eliminate Condition of Approval No. 4 for all three applications. He clarified that this Condition of Approval provides that the approval of CUP 2000-0003 (Sexton Mountain Village PUD), RZ 2000-0002 (Haggens Rezone), RZ 2000-0003 (Sexton Place Townhome Rezone), and RZ 2000-0001 (Beard Court Rezone) are contingent upon one another. He pointed out that eliminating this Condition of Approval would allow the residential developments to occur prior to the development of the Haggens Store. Concluding, he recommended approval of all three applications and offered to respond to any questions or comments.

1 Chairman Voytilla referred to a letter submitted by Mr. Orchard regarding the
2 working relationship between the applicant and Haggens, specifically providing
3 for an adequate level of service and questioned whether staff has reviewed any
4 type of an assurance.

5
6 Mr. Osterberg expressed his opinion that the Conditions of Approval included in
7 the Conditional Use Permit address this issue, emphasizing that staff is not relying
8 on any independent and private agreement between these two separate private
9 developers.

10
11 Chairman Voytilla questioned whether any provision has been made for utilities
12 and services in the event that the proposed Hagggen Store is not developed.

13
14 Mr. Osterberg advised Chairman Voytilla that no such provision has been made.

15
16 Commissioner Maks expressed concern with whether the applicant would follow
17 through with the remaining Conditions of Approval.

18
19 Mr. Osterberg assured Commissioner Maks that the remaining Conditions of
20 Approval would remain in effect.

21
22 **APPLICANT:**

23
24 **FRED GAST**, representing *Polygon Northwest*, on behalf of the applicant, stated
25 that the development would be developed as presented and as reflected in the
26 remaining Conditions of Approval. He expressed appreciation for being allowed
27 to present what he referred to as his "housekeeping" application, observing that
28 all applications have been deemed final and that the applicant would proceed with
29 the development. He expressed his opinion that the purpose of Condition of
30 Approval has been met, noting that the residents have been assured that certain
31 portions of the site would be developed as residential property. Concluding, he
32 pointed out that there have been no revisions to the plans that have been
33 approved, and offered to respond to any comments or questions.

34
35 Commissioner Lynott requested clarification that this action serves only to
36 separate the proposed Haggens' development from the residential development.

37
38 Mr. Gast informed Commissioner Lynott that this is correct.

39
40 Chairman Voytilla explained the procedure for accepting public testimony, adding
41 that each member of the public would be allowed three minutes to testify.

42
43 **PUBLIC TESTIMONY:**

44
45 **MAURA MALONE** expressed her opinion that these applications should not be
46 considered without first acknowledging the existing geo-environmental issues.

1 She discussed the history of the site and prior applications, pointing that Exhibit 6
2 had not originally been presented to the Planning Commission in its entirety. She
3 described studies that had been performed on this former unregulated landfill,
4 emphasizing that it contained numerous geo-environmental hazards, specifically,
5 but not limited to petroleum products, arsenic, barium and diesel fuel. She noted
6 that the Department of Environmental Quality (DEQ) has gotten involved and has
7 deemed that environmental cleanup and investigation is necessary.

8
9 Chairman Voytilla requested that Ms. Malone specify which site she is
10 addressing.

11
12 Ms. Malone advised Chairman Voytilla that she is addressing the Sexton Place
13 Townhome site.

14
15 Chairman Voytilla reminded Ms. Malone that these issues are not pertinent to this
16 specific application, emphasizing that it is necessary to address specific criteria.
17 He questioned whether she had reviewed the Staff Report and is familiar with the
18 application to be addressed at this time, pointing out that she is addressing
19 applications that have already been acted upon.

20
21 Ms. Malone expressed concern with proceeding with the development and the
22 effect upon the impervious materials located on the site.

23
24 Chairman Voytilla clarified that the content of this Public Hearing is limited to
25 only the application before the Planning Commission at this time, specifically the
26 elimination of Condition of Approval No. 4 on three previous applications. He
27 emphasized that the information she is providing is neither relevant to nor
28 appropriate to this particular Public Hearing.

29
30 Ms. Malone questioned where the methane gas would go if this development
31 proceeds.

32
33 Chairman Voytilla advised Ms. Malone that this is an issue that would be resolved
34 by the applicant and staff throughout the permit process.

35
36 Ms. Malone informed Chairman Voytilla that she hopes that members of the
37 Planning Commission are able to live with the decisions they are making,
38 pointing out that these decisions affect many individuals.

39
40 Chairman Voytilla expressed his appreciation to Ms. Malone for her concerns and
41 comments, observing that certain issues would be appropriately addressed through
42 DEQ, which is a separate entity.

43
44 **SUSAN COOK** referred to the Staff Report and exhibits that had been
45 distributed, specifically rationale for conditions, adding that she would also like to
46 address Oregon Statewide Goal 7. She pointed out that the one parcel on Beard

1 Road and Murray Boulevard is still under investigation by the DEQ. She
2 discussed a report by *CH2M Hill* that she had received from City Project Engineer
3 Jim Duggan, expressing her opinion that development prior to a determination by
4 the DEQ would jeopardize the water system of the City of Beaverton.

5
6 Chairman Voytilla reminded Ms. Cook that the DEQ's review involves a separate
7 entity.

8
9 Ms. Cook requested clarification of whether the Planning Commission is capable
10 of superseding the DEQ and allowing development to proceed.

11
12 Chairman Voytilla advised Ms. Cook that the Planning Commission could not
13 supersede the DEQ, emphasizing that tonight's action involves a different review
14 process and evaluation of the site. He pointed out that staff is working with the
15 DEQ and that the necessary permits would not be issued until all appropriate
16 issues have been addressed.

17
18 Ms. Cook informed Chairman Voytilla that she is attempting to provide
19 information to help the Planning Commission make an informed decision that
20 affects the citizens of the City of Beaverton adding that tonight's decision would
21 most likely be appealed.

22
23 **ANDY RAPP** referred to the initial assurances made by the developers that the
24 residential developments would not occur without the store, expressing his
25 opinion that these guarantees have not been followed through with. He
26 emphasized that utilities and transportation issues relating to all of these
27 applications are interrelated and dependent upon one another, expressing his
28 opinion that the applicant is manipulating the situation to achieve certain results.

29
30 **BOB BEARD** distributed copies of materials and discussed the legal basis for the
31 argument for the denial of the applicant's request for the elimination of Condition
32 of Approval No. 4 on the three applications. He noted that he has been involved
33 in this process from the beginning, adding that he is also involved with an
34 organization he referred to as *CLEAN*, which is involved with the *DEQ* process.
35 Referring to the Development Code, he quoted, as follows: "...applications for
36 substantial changes or alterations of conditions shall be processed in the same
37 manner as the original application or request." Mr. Beard indicated that this
38 means that when an individual submits an application to revise a prior decision,
39 the Planning Commission needs to review the issue in the context of all the
40 criteria that was appropriate for that initial decision. He mentioned that there is
41 substantial evidence showing that this application does not meet all applicable
42 criteria, emphasizing that the applicant needs to demonstrate that this criteria is
43 met.

44
45 Chairman Voytilla requested clarification of which document and the date of
46 these findings referred to by Mr. Beard.

1 Mr. Beard informed that although this variety of different documentation is not
2 listed explicitly, he has requested that the record be kept open for seven days to
3 address these issues in order to be able to provide all of these materials.
4

5 Chairman Voytilla questioned whether this information would be considered
6 relevant to this application.
7

8 Mr. Naemura advised Chairman Voytilla that it would be up to the proponent of
9 the material to convince the Planning Commissioners of the relevance of this
10 information.
11

12 Mr. Beard pointed out that some of this information, which he referred to as the
13 missing Exhibit 6, which was not available until the City Council Hearing, was a
14 part of the record that was considered somewhat late in the process.
15

16 **MARK HOLADY**, representing the *Neighbors for Livability (NFL)*, clarified that
17 *CLEAN* is not a non-profit corporation involved with the State of Oregon that is
18 concerned with the environmental aspects of the development of these sites within
19 the neighborhood.
20

21 9:21 p.m. to 9:29 p.m. – break.
22

23 Chairman Voytilla mentioned that it is necessary to take action on the letter
24 requesting a continuance or that the record be left open on this Public Hearing.
25

26 On behalf of the *NFL* and recognizing some level of linkage with *CLEAN*, Mr.
27 Beard discussed why the record should be left open in order to obtain further
28 information.
29

30 Chairman Voytilla observed that he is not familiar with *CLEAN*, adding that this
31 entity had not responded on any of the previous applications regarding these
32 issues. He questioned what type of information could be provided that would
33 justify keeping the record open on these applications.
34

35 Mr. Beard stated that there is fairly substantial evidence in the existing record
36 indicating that there are issues with respect to the Comprehensive Plan,
37 Development Code, and Oregon State statutes and regulations, adding that the
38 request is an attempt to gain additional time to compile all necessary information
39 regarding potential violations.
40

41 Referring to the 120-day deadline, Chairman Voytilla advised Mr. Beard that the
42 City of Beaverton is presently in day 56 of this particular application. He pointed
43 out that Planning Commissioners took the time to review the comments, which
44 are appreciated, adding that it is necessary to be certain that applicable criteria is
45 reviewed in a timely manner.

1 Commissioner Maks referred to page 1 of Mr. Kleinman's Memorandum,
2 specifically the comment that "...applications for substantial changes or
3 alterations of conditions shall be processed in the same manner as the original
4 application or request." He pointed out that as a Type 3 hearing, any
5 modification would be handled as no more or no less than a Type 3 hearing. He
6 commended Mr. Beard and Mr. Holady for their participation in this process,
7 emphasizing that partitions and tax lots are reviewed separately.

8
9 Mr. Holady expressed concern with the placement of concrete or asphalt prior to
10 the discovery of toxic material below, adding that at this point it would not be
11 economically feasible for the applicant to remove this material and that in the
12 meantime, there is a potential for people to be harmed. He expressed his opinion
13 that there exists an opportunity for the preservation of the unified development
14 and unified cleanup of this site, emphasizing that this would ensure the safety of
15 everyone connected with the site.

16
17 Expressing his appreciation of Mr. Holady's comments, Commissioner Maks
18 pointed out that the economic situation of the developer is not an issue. He
19 mentioned that any additional arguments presented within the next seven days
20 needs to indicate how only the removal of Condition of Approval No. 4 affects
21 the applicable criteria, adding that Mr. Kleinman's Memorandum has failed to
22 address this issue. He questioned the existence of any documentation from *DEQ*
23 prohibiting construction on this property.

24
25 Mr. Holady advised Commissioner Maks that no documentation prohibiting
26 construction on this property is available at this time. He expressed concern with
27 the potential for issues to be "swept under the carpet" if the applicant is allowed
28 to proceed with this proposed development.

29
30 **MARY PETERSON** reiterated the testimony of Andy Rapp and discussed what
31 she referred to as significant contradiction in the reversal of this position by staff.
32 Observing that she was one of the very first purchasers of property on 149th
33 Avenue, she noted that she had been involved with the Hagggen's proposal from
34 the beginning. She discussed the original intent that had been presented by the
35 applicant, expressing her opinion that there is no guarantee that the commercial
36 portion will be developed. Expressing her opinion that all of these pieces are
37 linked together, she emphasized that the current situation is a contradiction of the
38 initial proposal and promises. She commented that in the event that the Hagggen
39 Store is not developed, all of the parcels are supposed to revert to their original
40 zoning designations.

41
42 Chairman Voytilla requested clarification of what Ms. Peterson considers not
43 acceptable of the three proposals.
44

1 Ms. Peterson emphasized the necessity of going through the entire process again,
2 adding that she would like certain issues to be clarified, including access, utilities,
3 water mitigation, grading, storm water and traffic issues.
4

5 **STEVE SANDERS** observed that he is the Chairman of the Rezone Committee,
6 expressed his support of the application and process and offered to respond to any
7 questions or comments.
8

9 **APPLICANT REBUTTAL:**
10

11 Mr. Gast expressed his appreciation of the concerns of the neighbors, adding that
12 there had not been a great deal of testimony regarding Beard Court. Observing
13 that he recognizes the significance of the *DEQ* issue, he emphasized that the
14 applicant is working on and will address this issue prior to proceeding with any
15 development. He commented that he is concerned with extending the record for
16 an additional seven days, adding that although this is an ongoing debate, no new
17 issues have been presented. He pointed out that Condition of Approval No. 4 is
18 such a narrow issue, particularly with regard to Beard Court.
19

20 Chairman Voytilla questioned the feasibility of having sufficient time for the Tree
21 Inventory Work Session this evening.
22

23 Commissioner Maks suggested that Planning Commissioners e-mail any
24 comments regarding the Tree Inventory to staff.
25

26 Senior Planner Barbara Fryer observed that she would prefer to discuss the Tree
27 Inventory at an actual Work Session.
28

29 Chairman Voytilla assured Ms. Fryer that every attempt would be made to find
30 time for the Work Session tonight.
31

32 On question, Mr. Gast advised Chairman Voytilla that all issues that have been
33 brought up are being addressed.
34

35 Commissioner Maks pointed out that State Law requires that the record be left
36 open for a minimum period of seven days upon request.
37

38 On question, Mr. Naemura advised Chairman Voytilla that Commissioner Maks is
39 correct and that the record must remain open for the period of seven days,
40 although action could be taken at this time.
41

42 Commissioner Maks emphasized that the request to leave the record open is from
43 the public, not the applicant, adding that the clock is ticking and the issue needs to
44 be resolved as soon as possible.
45

1 Mr. Osterberg clarified several points and staff's position regarding the testimony,
2 pointing out that while Mr. Rapp's list of citations describing prior actions is
3 correct, all of those requirements have been met and City approvals have
4 occurred, adding that previous decisions of the Planning Commission only
5 required conditional approvals, not that developments had to begin construction.
6 He discussed the testimony of Mr. Beard, noting that a modification does not
7 warrant reconsideration of all previous approvals in their entirety and that all
8 procedural legal requirements have been met.

9
10 On question, Mr. Naemura indicated that he had no further comments or
11 questions.

12
13 The Public Hearing was closed.

14
15 Agreeing with Susan Cook's statement that the issue is a part of a process,
16 Commissioner Maks suggested that action be taken this evening and that the
17 record remain open for seven days to allow for the submittal of additional
18 information

19
20 Chairman Voytilla agreed that he prefers to take action on the application tonight
21 and leave the record open for the requested seven days.

22
23 Commissioner Lynott agreed with Commissioner Maks and Chairman Voytilla,
24 noting that he would like to take action on the application tonight and leave the
25 record open for the required seven days.

26
27 Chairman Voytilla expressed his approval of the three applications.

28
29 Commissioner Maks agreed with Chairman Voytilla, adding that he takes every
30 decision very seriously. Observing that the three applications only address
31 Condition of Approval No. 4, he expressed his opinion that any issues will be
32 addressed through the site development process, adding that he supports all three
33 applications.

34
35 Commissioner Lynott agreed with Chairman Voytilla and Commissioner Maks
36 and expressed his approval of all three applications.

37
38 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
39 that CUP 2001-0005 – Sexton Mountain Village Planned Unit Development;
40 Modification of Conditions of Approval be approved, based upon the testimony,
41 reports and exhibits presented during the Public Hearing on the matter and upon
42 the background facts, findings and conclusions found in the Staff Report dated
43 April 18, 2001, based upon this Public Hearing, thereby eliminating Condition of
44 Approval No. 4 for CUP 2000-0003, (Sexton Mountain Village Planned Unit
45 Development), requiring approval of the Haggen Rezone (RZ 2000-0002) and the
46 Sexton Place Rezone (RZ 2000-0003), and providing that the record be left open

1 for seven days to allow for the submittal of any additional information regarding
2 this application.

3
4 Motion **CARRIED**, unanimously.

5
6 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
7 that RZ 2001-0009 – Sexton Place Rezone; Modification of Conditions of
8 Approval be approved, based upon the testimony, reports and exhibits presented
9 during the Public Hearing on the matter and upon the background facts, findings
10 and conclusions found in the Staff Report dated April 18, 2001, based upon this
11 Public Hearing, thereby eliminating Condition of Approval No. 4 for RZ 2000-
12 0003, (Sexton Place Rezone), requiring approval of the Haggen Rezone (RZ
13 2000-0002) and the Beard Court Rezone (RZ 2000-0001), and providing that the
14 record be left open for seven days to allow for the submittal of any additional
15 information regarding this application.

16
17 Motion **CARRIED**, unanimously.

18
19 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
20 that CUP 2001-0010 – Beard Court Rezone; Modification of Conditions of
21 Approval be approved, based upon the testimony, reports and exhibits presented
22 during the Public Hearing on the matter and upon the background facts, findings
23 and conclusions found in the Staff Report dated April 18, 2001, based upon this
24 Public Hearing, thereby eliminating Condition of Approval No. 4 for RZ 2000-
25 0001, (Beard Court Rezone), requiring approval of the Haggen Rezone (RZ 2000-
26 0002) and the Sexton Place Rezone (RZ 2000-0003), and providing that the
27 record be left open for seven days to allow for the submittal of any additional
28 information regarding this application.

29
30 Motion **CARRIED**, unanimously.

31
32 10:20 p.m. -- Commissioners Barnard and Bliss left the audience and returned to
33 the dais to continue with the meeting.

34
35 **APPROVAL OF MINUTES:**

36
37 Minutes of the meeting of March 28, 2001, submitted. Commissioner Bliss
38 referred to line 39 of page 4, requesting that it be amended, as follows: "...the
39 Fire Marshall had actually ~~requested~~ **required** a twenty-foot clearance..."
40 Commissioner Maks **MOVED** and Commissioner Lynott **SECONDED** a motion
41 that the minutes be approved as written and amended.

42
43 Motion **CARRIED**, unanimously.

44

Chairman Voytilla observed that although Commissioner Heckman has returned from his family emergency out of town, he is very ill and will be unavailable for an undetermined period of time.

10:25 p.m. to 10:32 p.m. – break.

WORK SESSION:

TREE INVENTORY SIGNIFICANCE WEIGHTING

Ms. Fryer discussed nine documents she had distributed, observing that each includes criteria for individual trees, corridors and groves, as approved at the last Work Session. She provided illustrations of individual trees, including: 1) a Sycamore Tree at the City Library; 2) a Cedar Tree at the Post Office; and 3) a tree at the South Tektronix Station. She also provided illustrations of tree groves, including: 1) Autumn Ridge Park; 2) Hyland Forest Park; and 3) Camille Park. Next she displayed illustrations of Corridor Trees, including: 1) Oak Trees at Schottky Terrace; and 2) Douglas Fir Trees, Ponderosa Pine Trees, Spruce Trees and Oak Trees between 141st Avenue and Millikan Way; adding that these particular corridor trees are basically a remnant of a former grove of trees. She discussed the point values, categories and significance of these trees and how these were determined and questioned whether the Planning Commissioners prefer to address each tree individually or in groups.

Mr. Bergsma pointed out that while tree inventory significance would always be subjective, at least there has been a comparison on an equal basis.

Chairman Voytilla questioned whether information from the neighborhood groups, which is a major step in this process, has been received.

Ms. Fryer observed that while this information is due Friday, April 27, 2001, information has not yet been submitted by the neighborhoods.

Following a brief discussion, it was determined that the health of individual trees should be a criterion for determining significance.

Chairman Voytilla offered to attempt to provide assistance in convincing the neighborhood groups to participate in this effort

KATHRYN ARNOLD pointed out that she has been disappointed by the lack of effort on behalf of the NACs, adding that there had been some miscommunication and misunderstanding.

PAT RUSSELL expressed his opinion that sufficient people are not available to participate in this effort, pointing out that this is a time-consuming process.

1 **MISCELLANEOUS BUSINESS:**

2

3 The meeting adjourned at 11:00 p.m.